



[Billing Code: 4810–31–U]

## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Parts 40, 41, and 44**

**[Docket No. TTB–2013–0006; Notice No. 137; Re: T.D. TTB–115; T.D. ATF–421; T.D. ATF–422; ATF Notice Nos. 887 and 888]**

**RIN 1513–AB37**

#### **Importer Permit Requirements for Tobacco Products and Processed Tobacco, and Other Requirements for Tobacco Products, Processed Tobacco and Cigarette Papers and Tubes**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Elsewhere in this issue of the **Federal Register**, by means of a temporary rule, the Alcohol and Tobacco Tax and Trade Bureau (TTB) is amending its regulations pertaining to permits for importers of tobacco products and processed tobacco by extending the duration of new permits from three years to five years. Based on its experience in the administration and enforcement of importer permits over the past decade, TTB believes that it can gain administrative efficiencies and reduce the burden on industry members, while still meeting the purposes of the limited-duration permit, by extending the permit duration to five years. That temporary rule also makes several technical corrections by amending the definition of “Manufacturer of tobacco products” to reflect a recent statutory change, and by amending a reference to the sale price

of large cigars to incorporate a clarification published in a prior TTB temporary rule. Finally, the temporary rule published elsewhere in this issue incorporates and reissues TTB regulations pertaining to importer permit requirements for tobacco products, and minimum manufacturing and marking requirements for tobacco products and cigarette papers and tubes, and, as a result, that temporary rule replaces temporary regulations originally published in 1999. The text of the regulations in that temporary rule published elsewhere in this issue of the **Federal Register** serves as the text of the proposed regulations.

**DATES:** Comments must be received on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may send comments on this notice to one of the following addresses:

- <http://www.regulations.gov>: (via the online comment form for this notice as posted within Docket No. TTB–2013–0006 at “Regulations.gov,” the Federal e-rulemaking portal);
- Mail: Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; or
- Hand Delivery/Courier in Lieu of Mail: Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200E, Washington, DC 20005.

See the **Public Participation** section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, any comments received, and the related temporary rule at <http://www.regulations.gov> within Docket No. TTB–2013–0006. A direct link to that Regulations.gov docket is also available under Notice No. 137 on the TTB Web site at <http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml>. You also may view copies of these documents by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202–453–2270 to make an appointment.

**FOR FURTHER INFORMATION CONTACT:** For questions concerning this document, contact David Berenbaum, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202–453–1039, ext. 100 or [TobaccoRegs@ttb.gov](mailto:TobaccoRegs@ttb.gov)).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In the Rules and Regulations section of this issue of the **Federal Register**, the Alcohol and Tobacco Tax and Trade Bureau (TTB) is amending regulations pertaining to permits for importers of tobacco products and processed tobacco by extending the duration of new permits from three years to five years. TTB is also issuing a temporary rule reissuing and updating regulatory amendments to implement certain provisions of the Balanced Budget Act of 1997 (BBA) (Public Law 105–33, 111 Stat. 672). The temporary rule updates and reissues TTB regulations pertaining to importer permit requirements for tobacco products, and minimum manufacturing and marking requirements for tobacco products and cigarette papers and tubes. The regulations contained in the

temporary rule and proposed in this document replace temporary regulations issued under T.D. ATF-421 and T.D. ATF-422, which were originally published in 1999 by the former Bureau of Alcohol, Tobacco and Firearms (ATF). Finally, the temporary rule makes several technical corrections by amending the definition of “Manufacturer of tobacco products” to reflect a recent statutory change, and amending references to the sale price of large cigars to incorporate a clarification published in a prior TTB temporary rule.

The temporary regulations involve amendments to parts 40, 41, and 44 of the TTB regulations (27 CFR parts 40, 41, and 44). The text of the temporary regulations serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed regulations.

## **Public Participation**

### **Comments Invited**

TTB invites comments from interested members of the public on this proposed rulemaking. Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 137 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

### **Submitting Comments**

You may submit comments on this notice by one of the following three methods:

- Federal e-Rulemaking Portal: You may electronically submit comments on this notice through “Regulations.gov,” the Federal e-rulemaking portal. A direct link to the Regulations.gov docket containing this notice, Docket No. TTB–2013–0006, and its related comment submission form is available on the TTB Web site at <http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml> under Notice No. 137. You may also reach this notice and its related comment form via the Regulations.gov search page at <http://www.regulations.gov>. Supplemental files may be attached to comments submitted via Regulations.gov. For information on how to use Regulations.gov, visit the site and click on the “Help” tab.

- Mail: You may send written comments to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005.

- Hand Delivery/Courier: You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200E, Washington, DC 20005.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity’s name as well as your name and position title. If you comment via <http://www.regulations.gov>, please enter the entity’s name in the “Organization” blank of the comment form. If you comment via mail, please submit your entity’s comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

#### Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

#### Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, TTB will post, and you may view, copies of this notice, any electronic or mailed comments TTB receives about this proposal, and the related temporary rule within Docket No. TTB–2013–0006. A direct link to that Regulations.gov docket is available on the TTB Web site at <http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml> under Notice No. 137. You may also reach the relevant docket through the Regulations.gov search page at <http://www.regulations.gov>.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. TTB may omit voluminous attachments or material that TTB considers unsuitable for posting.

You also may view copies of this notice, any electronic or mailed comments TTB receives about this proposal, and the related temporary rule by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-

inch page. Contact TTB's information specialist at the above address or by telephone at 202-453-2270 to schedule an appointment or to request copies of comments or other materials.

### **Regulatory Analysis**

Since the regulatory text proposed in this notice of proposed rulemaking is identical to that contained in the companion temporary rule published elsewhere in this issue of the **Federal Register**, the analysis contained in the preamble of the temporary rule concerning the Regulatory Flexibility Act, the Paperwork Reduction Act, the inapplicability of prior notice and comment, and Executive Order 12866 also apply to this proposed rule.

### **Drafting Information**

Kara T. Fontaine and other Regulations and Rulings Division staff, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

### **List of Subjects**

#### **27 CFR Part 40**

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

#### **27 CFR Part 41**

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

## **27 CFR Part 44**

Aircraft, Armed forces, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Vessels, Warehouses.

### **Proposed Amendments to the Regulations**

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR, chapter I, parts 40, 41, and 44 as follows:

#### **PART 40—MANUFACTURE OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO**

1. The authority citation for part 40 is revised to read as follows:

**Authority:** 26 U.S.C. 5701–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

2. [The proposed amendatory instructions and the proposed regulatory text for part 40 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

#### **PART 41—IMPORTATION OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO**

3. The authority citation for part 41 continues to read as follows:

**Authority:** 26 U.S.C. 5701–5705, 5708, 5712, 5713, 5721–5723, 5741, 5754, 5761–5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.



4. [The proposed amendatory instructions and the proposed regulatory text for part 41 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

**PART 44—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX OR WITH DRAWBACK OF TAX**

5. The authority citation for part 44 continues to read as follows:

**Authority:** 26 U.S.C. 5701–5705, 5711–13, 5721–5723, 5731, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

6. [The proposed amendatory instructions and the proposed regulatory text for part 44 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

Signed: April 10, 2013.

**John J. Manfreda,**

Administrator.

Approved: April 11, 2013.

**Timothy E. Skud,**

Deputy Assistant Secretary.  
(Tax, Trade, and Tariff Policy).

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